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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/041,906	10/18/2001	Francois-Xavier Nuttall	46030.00030	5561

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EXAMINER

REAGAN, JAMES A

ART UNIT

PAPER NUMBER

3621

DATE MAILED: 04/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/041,906

Applicant(s)

NUTTALL ET AL.

Examiner

James A. Reagan

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 3-87 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3-87 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### **Status of Claims**

1. This action is in response to the amendment received on 09 March 2004 (paper #13).
2. Claims 3, 5, 25, 27, 47, 66, and 76 have been amended (paper #13).
3. Claims 86 and 87 have been added (paper #13).
4. Claims 3-87 have been examined.
5. The rejections of claims 3-85 have been updated to reflect the amended limitations.
6. The rejection of claims 86 and 87 are 85 are original.

### **RESPONSE TO ARGUMENTS**

7. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

### **Claim Rejections - 35 USC § 103**

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 3-87 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiser et al. (US 6,385,596 B1) in view of Clawson (US 6,112,304 A), and further in view of Savar (US 4,727,243).

**Claims 3, 4, 25, 26, and 47, 86, and 87:**

Wiser discloses an online music distribution system, permits in the form of authorizations, tokens, and PKI, and delivering the digital file (column 4, lines 13-28). Wiser does not specifically disclose tuples, reports, or firewalls. Clawson, however, does disclose tuples (column 12, lines 50-54), generating reports (column 16, lines 31-41), and a standard firewall (column 18, lines 33-44). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Wiser with Clawson because distributed computing is now widely available at lower prices, and the most cost-effective approach to many problems may involve harnessing many connected processors together into one large system. Some computing problems, such as tracking retail sales and inventory, improve reliability, since the failure of a single processor in a distributed system will not necessarily bring all work on a given problem to a halt. See Clawson, column 1, lines 13-23.

The combination of Wiser/Clawson does not specifically disclose *reconciling complete transactions from at least one of complete transactions from one of incomplete transactions and from events that indicate intentional interference*. Savar, however, in at least column 26 (Claim #27) discloses complete and incomplete transactions, as well as reconciling said transactions. It

would have been obvious to one of ordinary skill in the art at the time of the invention to combine the secure online music distribution system and architecture of Wiser/Clawson with Savar's reconciliation of transactions because this provides a check and assurance that all transactions regarding the sale of digital works have been properly accounted for and recorded, reducing fraud, waste and abuse of the system.

**Claims 5, 9, 10, 16, 23, 24, 27, 38, 45, 46 and 51, 60, 63, 64, 66 - 68, 72 - 74 and 76 - 80:**

Applicants' step of conveying a permit from a source reads on the content manager conveying the media voucher in response to a request to purchase content (digital media), and Applicants' step for conveying a portion of a data product reads on the delivery server (second provided process) conveying the purchased content to the consumer and column 9, lines 56 - 67. Applicants' steps of conveying without conveying indicia of identification of the source reads on the discussion of claims 20 and 22, below.

**Claims 6, 28 and 50:**

Applicants' multiple subsystem facility reads on figure 1 B.

**Claims 7, 29, 31, 32, 53 and 54:**

See discussion of claims 20 and 22, below.

**Claims 8, 30, 52 and 75:**

Applicants' first subsystem reads on the content manager, and Applicants' second subsystem reads on the delivery server. While Wiser et al do not

specifically disclose the use of a private network for communication between the content manager and delivery server, it is considered that it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Wiser et al to use a private network if, for instance, the various elements of the music distribution center were physically situated at one location.

**Claims 11, 33 and 55:**

The language of Applicants' claim 11 reads on columns 18 - 19, lines 66 - 67 and 1-10, respectively.

**Claims 12, 13, 34, 35, 49, 56 and 57:**

Applicants' second request reads on the voucher ID.

**Claims 14, 15, 36, 37, 58 and 59:**

Applicants' consumer subsystem reads on element 126.

**Claims 17, 18, 39, 40, 61 and 62:**

Wiser et al disclose both downloading and streaming the media data.

**Claims 19, 21, 41 and 43:**

Wiser et al disclose protected transfer; see column 6, lines 15 - 27.

**Claims 20, 22, 42, 44, 48, 69 - 71 and 82 - 85:**

Although Wiser et al do not specifically teach the use of anonymous transfer of data, Clawson discloses the use of firewalls as discussed above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **James A. Reagan** whose telephone number is **(703) 306-9131**. The examiner can normally be reached on Monday-Friday, 9:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **James Trammell** can be reached at (703) 305-9768.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Receptionist** whose telephone number is **(703) 305-3900**.

Any response to this action should be mailed to:

***Commissioner of Patents and Trademarks***

**Washington, D.C. 20231**

or faxed to:

**(703) 305-7687** [Official communications; including

After Final communications labeled "Box AF"]

**(703) 308-1396** [Informal/Draft communications, labeled  
"PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451  
Crystal Drive, Arlington, VA, 7<sup>th</sup> floor receptionist.

JAR

13 April 2004

